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10/539,896	06/16/2005	John W Pace	US020548	9456
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PHILIPS INTELLECTUAL PROPERTY & STANDARDS			SYED, NABIL H	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/539,896	PACE ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	NABIL H. SYED	2612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 30 January 2008.

2a) This action is **FINAL**.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-23 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-23 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____ .	6) <input type="checkbox"/> Other: _____ .

## **DETAILED ACTION**

1. The following is a final office action on merits. Amendments received on 1/30/08 have been entered. Claims 1-23 are pending.

### **Claim Rejections - 35 USC § 112**

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 2 and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claims 2 and 15 recite the limitation "the additional" in line 1. There is insufficient antecedent basis for this limitation in the claim.

As of claims 2 and 15, "the additional use" should be -- the permanent use--.

### **Claim Rejections - 35 USC § 102**

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1 and 2 are rejected under 35 U.S.C. 102(e) as being anticipated by Kramer et al. (6,738,810).

As of claim 1, Kramer discloses a system for enabling limited time trial use products for additional preselected use (via a method of encouraging timely period payments that are associated with a computer system), comprising: a power appliance (10), which has been adapted for limited time trial use (Kramer discloses that the computer system 100 is operable to prevent use of the computer system 100 in response to no-payment of no-timely payment of a fee, this would include a limited time initial trial use of computer system because if a user does not like the system they do not have to pay the fee and discontinue the service; see col. 3, lines 4-20; also see fig. 1 and 2); and an enabling device (12, 14), provided to the user following authorization, to enable the appliance for additional use (via user receiving the password after making the payment to enable the device for additional use; see col. 7, lines 42-56). Kramer further discloses that the power appliance can be a power personal care appliance (via a medical diagnostic equipment; see col. 3, line 18-19). Further when the user pay his fee, the appliance is enabled permanently, the user can keep paying the monthly fee and use the services for as long as they want, without expiration.

As of claim 2, Kramer discloses the additional use is long-term use and includes all of the functions of a conventional product (Karma discloses that after entering the correct password user of the computer system 100 regains complete access to the computer system; see col. 8, lines 30-33).

### **Claim Rejections - 35 USC § 103**

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8. Claims 1-3, 5-8, 10, 12, 13, 20 and 22 rejected under 35 U.S.C. 103(a) as being unpatentable over Green (4,624,578) in view of Hilscher et al. (7,207,080).

As of claims 1 and 3, Green discloses a power appliance (via rental equipment 10) adapted for limited time initial trial use (via the electronic device being used for rental; see col. 2, lines 28-35 Note: if after the expiration of the first rental period, the user can pay more to keep the device, so first rental period will be considered as limited time initial trial use ), and enabling device (via a magnetic card 34) to enable the device (see fig.3; also see col. 3, lines 1-14) (Note: the rental equipment 10, is used for limited time initial trial when it is rented for the first time by any user and user can continue paying the payment for as long as they want to keep the rented equipment, so the device is enabled without expiration as long user is paying his/her fee).

However Green fails to disclose that the power appliance is a personal care appliance.

Hilscher discloses a power personal care appliance (an electronic toothbrush; see fig. 1) having a transponder communicating with a handle portion of the toothbrush

via a non-contacting inductive coupling, wherein a control device 18 has an operation inhibiting device 36 which is activated and deactivated by means of an enabling element 38 on the brush attachment 20 (see fig. 1 and fig. 18; also see col. 15, lines 15-26).

From the teaching of Hilscher it would have been obvious to one having an ordinary skill in the art at the time the invention was made to modify the power appliance of Green to include an electric toothbrush as taught by Hilscher in order to provide a simple travel security function for the handle section preventing the handle section from operating when the cleaning tool with its acting member is not coupled (see col. 10, lines 9-15).

As of claim 2, Green discloses that after the insertion of the magnetic card the lessee can use all the functions of the device (see col. 2, lines 59-67).

As of claim 5, Green discloses that he magnetic card is inserted in a slot 20 of the electronic device to enable the device (see fig. 2; also see col. 2, lines 47-52).

As of claim 6, Green discloses that the power appliance has a slot 20 (see fig. 2) and the enabling device has a magnetic strip to communicate with each other (see col. 2, lines 47-60).

As of claim 7, the magnetic card 34 nestles into slot 20 of the power appliance (see col. 2, lines 60-63).

As of claim 8, Hilscher discloses that a toothbrush has a tag integrated to it and the information from the tag is received optically (see col. 2, lines, 65-67).

As of claim 10, Green discloses that the communication is magnetic (see col. 3, lines 1-5).

As of claim 12, Green discloses that a separate magnetic card (enabling device) is used for each rented appliance (see col. 3, liens 7-8).

As of claim 13, Green discloses that the magnetic card is capable of enabling the device only once, because the encode information of the card is erased each time the card is use for security purposes (see col. 3, lines 8-14).

As of claim 20, Green discloses a power appliance (via rental equipment 10) adapted for limited time trial use (via the electronic device being used for rental; see col. 2, lines 28-35), wherein the actuation of switches 26 and 28 enables the power appliance (see col. 2, lines 57-59). (Note: the rental equipment 10, is used for limited time initial trial when it is rented for the first time by any user and user can continue paying the payment for as long as they want to keep the rented equipment, so the rental period is without expiration as long user is paying his/her fee).

However Green fails to disclose that the power appliance is a personal care appliance.

Hilscher discloses a power personal care appliance (an electronic toothbrush) having a transponder communicating with a handle portion of the toothbrush via a non-contacting inductive coupling, wherein a control device 18 has an operation inhibiting device 36 which is activated and deactivated by means of an enabling element 38 on the brush attachment 20 (see fig. 1 and fig. 18; also see col. 15, lines 15-26).

As of claim 22, Green discloses a power appliance (via rental equipment 10) adapted for limited time trial use (via the electronic device being used for rental; see col. 2, lines 28-35), wherein the switches 26 and 28 have a particular pattern (via increasing

the current time if the switch 26 is closed), the switches are operable by the user using a magnetic card (see col. 5, lines 23-39). (Note: the rental equipment 10, is used for limited time initial trial when it is rented for the first time by any user and user can continue paying the payment for as long as they want to keep the rented equipment, so the rental period is without expiration as long user is paying his/her fee).

9. Claims 4, 9, 11, 14, 15, 16, 18 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Green 4,624,578) in view of Valiulis (6,317,028).

As of claim 14, Green discloses a power appliance (via rental equipment 10) adapted for limited time trial use (via the electronic device being used for rental; see col. 2, lines 28-35), a communication element (slot 20) an external source (magnetic card) to enable the device. (Note: the rental equipment 10, is used for limited time initial trial when it is rented for the first time by any user and user can continue paying the payment for as long as they want to keep the rented equipment, so the rental period is without expiration as long user is paying his/her fee).

However Green fails to disclose that device communicate with the external source over a communication line.

Valiulis discloses electronic device with a communication element (via RFID module 83; see fig. 8), which enables and disables the device upon the signal from the user, wherein the device receives an enabling message from an external source (via other appliances) over a communication line (via a communication bus 77; see fig. 7; also see col. 15, lines 10-19).

From the teaching of Valiulis it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the power appliance of Green to include a communication line as taught by Valiulis in order to allow the device to communicate with the external devices (see col. 15, lines 9-19).

As of claim 4, Valiulis discloses that the enabling device is permanently integrated within the electronic appliance (see col. 14, lines 60-67)

As of claim 9, Valiulis discloses that the communication is radio frequency (see col. 10, lines 35-40).

As of claim 11, even though not explicitly said but it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the combination of Green and Valiulis to include infrared communication since it is well known in the art that that infrared communication is used where line of sight communication is required so a user does not activate devices in the other rooms of a house.

As of claim 15, it discloses the same subject matter as claimed in claim 2, so claim 15 is rejected as claim 2.

As of claim 16, Valiulis discloses that the communication line is telephone line (via user communicating with the registration authority over a telephone line; see col. 14, lines 42-43).

As of claim 18, Valiulis discloses that the communication line is an Internet line (via user communicating with the registration authority over a modem 57; see col. 14, lines 42-43).

As of claim 19, the combination of Green and Valiulis discloses all the elements of the claimed invention but fails to explicitly disclose that the communication element is located in a charger portion of a power appliance. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the power device of to include the communication element in the charger portion since it has been held that rearranging parts of an invention involves only routine skill in the art.

10. Claims 17, 21, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Green (4,624,578) and view of Hilscher et al. (7,207,080).

As of claims 17, 21 and 23, they claim the same subject matter as claimed in claim 3 above, so they are rejected as claim 3.

### **Response to Arguments**

11. Applicant's arguments filed 1/30/08 have been fully considered but they are not persuasive.

Applicant argues that in applicant's invention, "the personal care appliance, for instance, a power toothbrush, is first in the possession of a user for a pre-enabled trial period of time. This is a short term period of time. In a typical "trial" use, a potential purchaser is given an article to use to determine potential interest in purchasing the appliance. Following the trial use, the user can convert the status of the appliance to a permanent use by a single payment/authorization for which the user receives permanent use of the appliance without further obligation/authorization, and without any explanation of his/her right to use the appliance, i.e., as if the user had initially actually

purchased the appliance, There is no teaching of such a structural concept in Green or Hilscher.”

The Examiner respectfully disagrees. Applicants are reminded that during examination, claims are given their “broadest reasonable interpretation . . .” *In re Morris*, 127 F.3d 1048, 1054, 44 USPQ2d 1023, 1027 (Fed. Cir. 1997); *In re Prater*, 415 F.2d 1393, 1404-05, 162USPQ 541, 550-51 (CCPA 1969).<sup>1</sup> Therefore, under the broadest reasonable interpretation standard, the Examiner maintains his interpretations.

In Green the rental equipment 10 can be used for limited time initial trial when it is rented for the first time by any user and user can continue paying the payment for as long as they want to keep the rented equipment, so the rental period is without expiration as long user is paying his/her fee. Further with regard to applicant amendments a “power personal care appliance”, any home electronic device can be a personal care appliance. For example, Green discloses that the rental equipment can be a TV, refrigerator, VCR etc. User can use the refrigerator to store the food they eat; hence refrigerator is an appliance which user uses to care for their personal food. Further a user can play an exercise video on their VCR to keep their body healthy, making it a power personal appliance.

Further, in response to applicant's argument that the reference fails to show certain features of applicant's invention, it is noted that this feature upon which applicant relies (i.e., following the trial use, the user can convert the status of the appliance to a permanent use by a single payment/authorization...) is not recited in the rejected

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<sup>1</sup> <sub>19</sub> See also MPEP §2111; *In re Graves*, 69 F.3d 1147, 1152, 36 USPQ2d 1697, 1701

claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

As of applicant's argument, in Green "there is no teaching of a user applying a particular sequence or pattern of manipulating the on/off switch of the device in order to achieve the permanent use status for appliance." The Examiner respectfully disagrees. Green discloses that the user uses his card to open or close (sequence or pattern) the switches 26 and 28 to advance the rental time (col. 5, lines 23-38), hence the switches are operable by the user.

### **Conclusion**

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NABIL H. SYED whose telephone number is (571)270-3028. The examiner can normally be reached on M-F 7:30-5:00 alt Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Zimmerman can be reached on (571)272-3059. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Nabil H Syed  
Examiner  
Art Unit 2612

N.S

/Brian A Zimmerman/  
Supervisory Patent Examiner, Art Unit 2612